

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #14	CCRB Case #: 201508189	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/19/2015 6:00 PM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 3/19/2017	EO SOL 3/19/2017	
Date/Time CV Reported Sat, 09/19/2015 11:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/28/2015 2:50 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Mike Civil	02114	935092	NARCBBS
2. DT3 Essence Jackson	02268	938703	NARCBBS
3. An officer			NARCBBS
4. Officers			NARCBBS
5. DT3 Frank Lorello	04726	928667	NARCBBS
6. POM Daniel Hachemeister	31650	949074	NARCBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Andrey Smirnov	00000	931503	NARCBBS
2. DT3 Humberto Kibel	02547	942004	NARCBBS
3. DT3 James Luongo	5875	947192	NARCBBS
4. DT3 Ade Ajasa	00686	941326	NARCBBS
5. DT3 John Fernandez	00175	930138	NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Essence Jackson	Force: Det. Essence Jackson used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.DT3 Mike Civil	Force: Det. Mike Civil used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
E. An officer	Force: An officer struck § 87(2)(b) [REDACTED] against a vehicle.	[REDACTED]
F. Officers	Force: Officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.DT3 Frank Lorello	Force: Det. Frank Lorello used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.DT3 Mike Civil	Discourtesy: Det. Mike Civil spoke discourteously to § 87(2)(b) and § 87(2)(b)	
I.DT3 Frank Lorello	Discourtesy: Det. Frank Lorello spoke discourteously to § 87(2)(b) and § 87(2)(b)	
J.POM Daniel Hachemeister	Force: PO Daniel Hachemeister used physical force against § 87(2)(b)	
K.POM Daniel Hachemeister	Discourtesy: PO Daniel Hachemeister spoke discourteously to § 87(2)(b)	
L.POM Daniel Hachemeister	Abuse: PO Daniel Hachemeister threatened to arrest § 87(2)(b)	
M.DT3 Mike Civil	Force: Det. Mike Civil used physical force against § 87(2)(b)	
N.DT3 Mike Civil	Discourtesy: Det. Mike Civil spoke discourteously to § 87(2)(b)	
O.DT3 Mike Civil	Force: Det. Mike Civil used physical force against § 87(2)(b)	
P.DT3 Essence Jackson	Force: Det. Essence Jackson used physical force against § 87(2)(b)	
Q.DT3 Mike Civil	Force: Det. Mike Civil used physical force against § 87(2)(b)	
R.DT3 Mike Civil	Force: Det. Mike Civil used physical force against § 87(2)(b)	
S.DT3 Mike Civil	Discourtesy: Det. Mike Civil spoke discourteously to § 87(2)(b)	
T.DT3 Essence Jackson	Discourtesy: Det. Essence Jackson spoke discourteously to § 87(2)(b)	

Case Summary

On September 19, 2015, Capt. Theodore Lauterborn of Narcotics Borough Brooklyn South filed this complaint by phone with IAB on behalf of § 87(2)(b) generating original log number 2015-27965. On the same day, § 87(2)(b) called IAB and filed a complaint regarding the same incident on behalf of § 87(2)(b) generating original log number 2015-27948. The CCRB received the complaints on September 28, 2015.

On September 19, 2015, at approximately 6 p.m., § 87(2)(b) was standing on § 87(2)(b) in Brooklyn. § 87(2)(b) had allegedly arranged to sell a firearm to an undercover officer at that location, and had allegedly sold narcotics to the same undercover officer on numerous prior occasions. § 87(2)(b) was also wanted as the suspect in an investigation into a murder that occurred a week prior. Plainclothes officers from Narcotics Borough Brooklyn South approached and attempted to apprehend § 87(2)(b). Det. Essence Jackson was the first officer to approach § 87(2)(b) who allegedly tried to draw a firearm from his waistband before dropping it on the ground. Det. Jackson grabbed § 87(2)(b) and the two fell to the ground (**Allegation A**). § 87(2)(b) allegedly tried to reach for the gun and fought with officers. Officers struggled with § 87(2)(b) on the ground in an attempt to handcuff him. Det. Mike Civil and an unidentified officer allegedly punched and kicked § 87(2)(b) in the right eye before and after he was handcuffed (**Allegations B and C**). Multiple unidentified officers also allegedly told § 87(2)(b) “This what you fucking get” (**Allegation D**). Officers picked up § 87(2)(b) from the ground, and an unidentified officer allegedly grabbed the back of his head and struck the right side of his face against a parked vehicle (**Allegation E**).

§ 87(2)(b) girlfriend, § 87(2)(b) approached the scene and two unidentified officers allegedly slammed her on the ground (**Allegation F**). § 87(2)(b) allegedly grabbed § 87(2)(b) firearm on the ground. Det. Civil and Det. Frank Lorello attempted to handcuff § 87(2)(b) and Det. Lorello punched her twice in the back of the left shoulder (**Allegation G**). § 87(2)(b) s cousin, § 87(2)(b) and her mother, § 87(2)(b) were also on scene. Det. Civil and Det. Lorello allegedly told § 87(2)(b) and § 87(2)(b) to “shut the fuck up” (**Allegations H and I**). § 87(2)(b) began filming the incident while screaming profanities at the officers. PO Daniel Hachemeister physically blocked § 87(2)(b) and pushed him away (**Allegation J**). PO Hachemeister also allegedly told § 87(2)(b) to “shut the fuck up” and allegedly threatened to arrest him (**Allegations K and L**). Det. Civil allegedly brought § 87(2)(b) to the ground to arrest him (**Allegation M**). When Det. Civil found pills in § 87(2)(b) s pocket and was told they were for epilepsy, he allegedly said, “These not no fucking seizure pills” (**Allegation N**). Det. Jackson and Det. Civil carried § 87(2)(b) to a waiting van and allegedly threw him into the rear compartment (**Allegations O and P**). § 87(2)(b) and § 87(2)(b) were also placed in the van, and Det. Jackson and Det. Civil rode in the rear compartment with the prisoners during the journey to the 60th Precinct stationhouse. During the journey, Det. Civil allegedly punched § 87(2)(b) multiple times in the face (**Allegation Q**) and allegedly elbowed § 87(2)(b) in the neck (**Allegation R**). Det. Civil allegedly told § 87(2)(b) to “shut the fuck up,” and Det. Jackson allegedly made the same statement to § 87(2)(b) (**Allegations S and T**).

§ 87(2)(b) was arrested on charges of criminal possession of a loaded firearm, resisting arrest, and 95 counts related to the sale and possession of controlled substances (BR01). § 87(2)(b) was arrested on charges of criminal possession of a loaded firearm, resisting arrest, and obstructing governmental administration (BR02). § 87(2)(b) was arrested on charges of obstructing governmental administration and of criminal possession of a controlled substance in the third and seventh degrees (BR03).

§ 87(2)(b) provided a short video he filmed with his cellphone during the incident (BR04). Footage from nearby TARU cameras was also obtained, but none of the cameras captured any portion of the incident.

This case is being submitted one month past the 90-day benchmark. As detailed in the Potential Issues section below, the delays were caused by difficulties in obtaining statements from the civilians involved and difficulties in obtaining relevant medical records and police documents.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation because three civilians were arrested and had open criminal cases.
- On December 29, 2015, the undersigned requested copy of any Notice of Claim filed with the NYC Comptroller's office regarding the incident. As of the date of this report, no response has been received. The response will be added to the case file upon receipt.
- § 87(2)(b)'s criminal case resulting from his arrest in this incident is ongoing. He is charged with three counts of criminal sale of a controlled substance in the second degree and one count of criminal sale of a controlled substance in the third degree (BR05). He has previously been convicted twice of attempted robbery in the second degree and has been convicted five times of disorderly conduct. He also has two open criminal cases resulting from being rearrested while in custody after this incident. In those cases he is charged with murder in the second degree, two counts of criminal possession of a weapon in the second degree, menacing in the third degree, and harassment in the second degree (BR08).
- § 87(2)(b)'s criminal case resulting from her arrest in this incident is ongoing. She is charged with two counts criminal possession of a weapon in the second degree, one count of criminal possession of a weapon in the fourth degree, obstructing governmental administration in the second degree, and resisting arrest (BR06). § 87(2)(b) has no previous criminal convictions (BR09).
- § 87(2)(b) pleaded guilty to disorderly conduct in the criminal case resulting from his arrest in this incident and was sentenced to four days of community service (BR07). § 87(2)(b) has previously been convicted of harassment in the second degree and disorderly conduct and was sentenced to a conditional discharge (BR10).
- § 87(2)(b) has no previous criminal convictions (BR11).

Civilian and Officer CCRB Histories

- § 87(2)(b) and § 87(2)(b) have not been involved in any prior CCRB cases (BR12; BR13; BR14). § 87(2)(b) has been involved in two prior CCRB cases (BR15).
 - § 87(2)(b)
- Det. Mike Civil has been a member of the NYPD for 11 years and has 78 prior CCRB allegations involving 27 cases with three substantiated allegations. He also has seven pending allegations in one case that occurred after this incident (see officer history):
 - In case #200609036, the Board substantiated an allegation of physical force and recommended charges. Det. Civil was found not guilty at trial.
 - In case #200715114, the Board substantiated an allegation of vehicle stop and recommended charges. The NYPD took no disciplinary action.
 - In case #201113437, the Board substantiated an allegation of discourtesy and recommended charges. The NYPD imposed a command discipline B.
- Det. Essence Jackson has been a member of the NYPD for ten years and has 20 prior CCRB allegations involving ten cases, including prior discourtesy and force allegations, but none of these allegations were substantiated. He also has ten pending allegations involving two cases that occurred before this incident, and ten pending allegations involving two cases that occurred after this incident (see officer history).

- Det. Frank Lorello has been a member of the NYD for 14 years and has no prior CCRB allegations. He has one pending allegation for a case that occurred after this incident (see officer history).
- PO Daniel Hachemeister has been a member of the NYPD for five years and has one prior CCRB allegation that was not substantiated. He also has three pending allegations for a case that occurred after this incident (see officer history).

Potential Issues

- § 87(2)(b) was incarcerated when the complaint was filed. Interviewing him was complicated by the fact that during the time the CCRB was trying to obtain his statement, he had numerous court dates and changed DOC facilities multiple times.
- § 87(2)(b) and § 87(2)(b) along with a witness, § 87(2)(b) twice scheduled and missed appointments to provide sworn statements. All three also refused to provide complete phone statements.
- § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- Despite a subpoena, § 87(2)(b) Hospital only provided medical records after the undersigned followed up with the hospital, and not until weeks after the date specified on the subpoena. There were also significant delays in obtaining police documents from Narcotics Borough Brooklyn South.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) was able to describe four officers who first engaged him in a physical struggle. The investigation identified three of the officers as Det. Jackson, Det. Civil, and Det. Ajasa. § 87(2)(b) specifically alleged that Det. Civil and the fourth unidentified officer immediately began punching and kicking him in the right eye after he was brought to the ground. § 87(2)(b) described the fourth officer as a Hispanic man who was 5'8"-5'9" tall, with a slim build, and who was wearing a hat. The investigation learned that Det. Kibel was among the officers who first approached § 87(2)(b) but Det. Kibel is over six feet tall and was not wearing a hat. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] Ultimately the investigation was unable to positively identify the second officer. Accordingly, this allegation of force is pleaded against "an officer."
- § 87(2)(b) did not spontaneously allege that officers used profanity during the incident, but after being specifically asked, he alleged that officers said, "This what you fucking get," while his eye was being punched and kicked. § 87(2)(b) could not specify which of the four officers he described made the statement, and could say only, "They all verbally just came at me." As a result, the investigation could not positively identify the subject officers. Accordingly, this allegation of discourtesy is pleaded against "officers."
- § 87(2)(b) alleged that an officer put his hand on the back of his head and struck his face against the side of a van. He could not say which officer did so. § 87(2)(b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] As such, this allegation of force is pleaded against "an officer."
- § 87(2)(b) alleged that two officers grabbed § 87(2)(b) and slammed her to the ground. As § 87(2)(b), § 87(2)(g) [REDACTED] s

§ 87(2)(g) As such, this allegation of force is pleaded against “officers.”

Allegations not pleaded

- **Abuse of Authority:** § 87(2)(b) claimed that PO Hachemeister, by blocking him and pushing him away, was attempting to interfere with his ability to film the incident. However, rather than this being pleaded separately, this is subsumed in the force allegation that accounts for PO Hachemeister's actions at this point in the incident.
- **Force:** § 87(2)(b) claimed that an officer repeatedly kicked § 87(2)(b) in the ribs during the ride to the stationhouse. However, because § 87(2)(b) did not allege this, no force allegation is pleaded in regard.
- **Discourtesy:** § 87(2)(b) alleged that Det. Jackson and Det. Civil told § 87(2)(b) to "shut the fuck up" during the ride to the stationhouse. However, because § 87(2)(b) did not allege this, no discourtesy allegations are pleaded in regard.
- **Abuse of Authority:** § 87(2)(b) complained that Det. Civil searched his pockets. However, because it is clear that the search occurred only after § 87(2)(b) was considered arrest, and was incident to his arrest, it is not being pleaded.

- **Allegation A—Force: Det. Essence Jackson used physical force against** § 87(2)(b)

It is undisputed that Det. Jackson grabbed § 87(2)(b) that § 87(2)(b) attempted to flee, and that the two went to the ground together.

§ 87(2)(b) recounted that Det. Jackson suddenly grabbed his sweater, swung him in a circle, and pulled him to the ground while falling with him (BR16). § 87(2)(b) denied that he resisted arrest but admitted that he pulled away from Det. Jackson and tried to run because he did not realize that Det. Jackson was an officer.

Det. Jackson recounted that he approached § 87(2)(b) and said, “Police. Don’t move” (BR17). § 87(2)(b) immediately turned to run and Det. Jackson grabbed him around his waist in a bear-hug. § 87(2)(b) continued to pull away and dragged Det. Jackson with him. § 87(2)(b) reached into the front of his waistband and began to draw a handgun when Det. Kibel arrived and grabbed him as well. Det. Jackson, Det. Kibel, and § 87(2)(b) fell to the ground and § 87(2)(b) dropped the handgun. § 87(2)(g) (BR18).

The officers vouchered a loaded black revolver (BR19). When the investigator told § 87(2)(b) that police reports indicated that he had such a weapon during the incident, he replied, "I don't recall that." When pressed as to whether § 87(2)(b) had attempted to pick up a firearm during the incident, § 87(2)(b) said, "I don't recall me having a gun, and I don't recall my girlfriend having a gun."

Patrol Guide Procedure 203-11 requires that officers use minimum necessary force and that only the amount of force necessary to overcome resistance will be used to effect an arrest (BR20).

§ 87(2)(b), § 87(2)(g)

- **Allegation B—Force: Det. Mike Civil used physical force against** § 87(2)(b)

§ 87(2)(b) alleged that Det. Civil and an unidentified officer immediately began punching and kicking him in the right eye after he was brought to the ground, striking him an unknown number of times. When asked if he was struck more than five times, § 87(2)(b) answered affirmatively. When asked if he was struck more than ten times, he said, "Probably so." However,

when asked specifically how many times he was punched and how many times he was kicked, § 87(2)(b) replied, “No, I don’t know. I just know it was more than three. More than ten.” § 87(2)(b) claimed that the officers struck him before and after he was handcuffed. § 87(2)(b) did not spontaneously allege that the officers also stomped on his head, but when asked if they did so, he answered affirmatively and said that it caused a scrape near his hairline above his left eye. § 87(2)(b) denied that he resisted arrest and denied that he punched or kicked any officers.

§ 87(2)(b) arrest photo shows that his right eye was swollen shut (BR21). His MTPR indicates that he was examined at the 60th Precinct stationhouse by EMTs, that he had facial bruising and cuts to his knee, and that he refused medical attention (BR22). § 87(2)(b) was later brought to § 87(2)(b) Hospital, where he was examined again and was tested for § 87(2)(b) because officers were exposed to his blood during the incident. The records indicate that he had swelling to his right eye and abrasions to his left forehead and left knee. X-rays were taken of his face, left knee, and left wrist, which showed no fractures or dislocations. He had right periorbital swelling and soft tissue swelling in the suprapatellar region of his knee (see Privileged Documents).

In his telephone statement, § 87(2)(b) alleged that approximately six officers were surrounding § 87(2)(b) on the ground, and that one was kicking his face while another kicked his ribs (BR23). He could not describe either officer. However, during his in-person interview, § 87(2)(b) admitted that could not see if any of the officers were striking § 87(2)(b) and that § 87(2)(b) was already handcuffed when he arrived (BR24). § 87(2)(b) was yelling “Help me!” and his face was bloody. The video footage shot by § 87(2)(b) seen in SnagIt #1 enclosed below (BR25), begins with § 87(2)(b) on the ground and surrounded by officers. At no point during the footage does any officer appear to strike § 87(2)(b)



2016-01-27_12-32-07.mp4

As previously discussed, § 87(2)(b) and § 87(2)(b) refused to provide complete phone statements. § 87(2)(b) did allege that multiple officers stomped on § 87(2)(b) face after taking him to the ground, but she could not say how many officers did so or provide descriptions of them (BR26). § 87(2)(b) also said that officers stomped on § 87(2)(b) face but did not provide any additional information (BR26). § 87(2)(b) said only that officers were punching and kicking § 87(2)(b) (BR27).

Det. Civil denied that he ever punched, kicked, or stomped on § 87(2)(b) during the struggle to handcuff him, and denied seeing any other officer do so. He recounted that § 87(2)(b) tried to reach for the firearm after going to the ground, and that he tried to escape officers’ grasps by punching, kicking, scratching, and biting. He knew § 87(2)(b) kicked him during the struggle but could not say where on his body § 87(2)(b) kicked, and knew he saw § 87(2)(b) strike Det. Jackson. It took about a minute for the officers to handcuff § 87(2)(b) § 87(2)(g)

§ 87(2)(b) Det. Lorello did not take part in the struggle to handcuff § 87(2)(b) but he also denied seeing any officer punch, kick, or stomp on him (BR28). The narrative section of § 87(2)(b) arrest report notes that he “did flail arms, kick, punch, bite, spit, scratch, and claw at responding officers” (BR01).

Det. Jackson recalled seeing swelling about § 87(2)(b) eye and Det. Civil recalled seeing scrapes and bruising on him before he was placed in the van. Neither officer could say exactly how § 87(2)(b) sustained the injuries but they assumed that the injuries resulted from the struggle on the ground.

Six officers prepared LOD documentation regarding injuries they sustained during the incident (BR31). Lt. Smirnov sustained a contusion to his right knee and was exposed to § 87(2)(b) bloody saliva, Det. Jackson sustained a contusion to his right wrist and elbow, Det. Civil sustained a contusion to his right forearm and sprained his left ankle, Det. Fernandez sprained his right wrist and forearm, Det. Kibel sprained his right wrist and forearm, and Det. Luongo

sprained his right hand and forearm. At their CCRB interviews, Det. Jackson and Det. Civil reported that they each missed one week of work due to their injuries. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 203-11 requires that officers use minimum necessary force (BR20).

§ 87(2)(b), § 87(2)(g)

- **Allegation C—Force: An officer used physical force against** § 87(2)(b)

As previously discussed in the Officer Identification section, the investigation could not positively identify the second officer who, along with Det. Civil, allegedly punched and kicked § 87(2)(b) in the right eye before and after he was handcuffed. § 87(2)(g)

- **Allegation D—Discourtesy: Officers spoke discourteously to** § 87(2)(b)

During his initial account of the incident and during additional questioning, § 87(2)(b) never alleged that officers used profanity with him. However, after being specifically asked if they ever did so, § 87(2)(b) then alleged that officers said, “This what you fucking get,” while his eye was being punched and kicked. § 87(2)(b) could not specify which of the four officers he described made the statement, and could say only, “They all verbally just came at me.”

§ 87(2)(b) and § 87(2)(b) did not allege that any officer made the statement in question to § 87(2)(b). The video footage does not capture any officers using profanity.

Det. Jackson and Det. Civil denied making the statement, and they and Det. Lorello all denied hearing any officer do so.

§ 87(2)(b), § 87(2)(g)

- **Allegation E—Force: An officer struck § 87(2)(b) against a vehicle.**

In his initial account of the incident, § 87(2)(b) alleged that officers picked him up and struck his face “several times” against a white van. § 87(2)(b) later elaborated that an officer put his hand on the back of his head and pushed the right side of his face into the side of the van. However, § 87(2)(b) then stated unequivocally that his face only struck the van once.

As previously mentioned, § 87(2)(b) and § 87(2)(b) alleged that officers picked up § 87(2)(b) struck his face against a vehicle, and then struck his face back against the ground. They described officers repeating this process multiple times. § 87(2)(b) and § 87(2)(b) did not allege that officers ever struck § 87(2)(b) against a vehicle. The video footage ends before § 87(2)(b) is picked up from the ground.

Det. Jackson, Det. Civil, and Det. Lorello denied striking § 87(2)(b) face against a vehicle and denied seeing any other officer do so. All three also recounted that § 87(2)(b) spit blood directly into Lt. Smirnov’s face on his way to the van. They gave differing accounts of how § 87(2)(b) arrived at the van. Det. Jackson recounted that § 87(2)(b) kicked and refused to walk, so he and Det. Civil carried § 87(2)(b) horizontally. Det. Civil also said that § 87(2)(b) began kicking officers and vehicles while walking, but he first said that he pushed § 87(2)(b) from behind to get him into the rear of the van. However, he then admitted that he did not recall exactly how § 87(2)(b) was brought to the van. He specifically denied, however, that he picked § 87(2)(b) up from the ground. Det. Lorello denied that officers carried § 87(2)(b) to the van, but also said that he did not see which officers lodged him in the van and that he grabbed Lt. Smirnov to pull him away from the scene after he was exposed to § 87(2)(b) blood.

§ 87(2)(b), § 87(2)(g)

- **Allegation F—Force: Officers used physical force against § 87(2)(b)**

During his in-person interview, § 87(2)(b) alleged that two white male officers grabbed § 87(2)(b) as she ran toward the incident and slammed her to the ground on her front. These two officers then began trying to handcuff her. However, in his telephone statement, § 87(2)(b) said that § 87(2)(b) was already on the ground when he arrived on scene.

§ 87(2)(b) said that officers tackled her to the ground but did not provide any further information. § 87(2)(b) first said that officers threw § 87(2)(b) to the ground but later admitted that § 87(2)(b) was already on the ground when she arrived on scene. § 87(2)(b) did not arrive on scene before § 87(2)(b) was on the ground. § 87(2)(b) could not see what happened to § 87(2)(b) and never saw any officers use force against her.

The video footage begins after § 87(2)(b) was brought to the ground, but it clearly shows that Det. Civil and Det. Lorello were the two officers handcuffing her. § 87(2)(b), § 87(2)(g)

Det. Civil recounted that § 87(2)(b) approached the scene and picked up the firearm while officers were attempting to handcuff § 87(2)(b). Det. Civil grabbed her waist and pulled her backwards to the ground. § 87(2)(b) lost her grip of the firearm and Det. Civil began trying to handcuff her. Det. Lorello arrived after § 87(2)(b) was on the ground and assisted Det. Civil in handcuffing her. He recounted that Det. Civil yelled, “She grabbed the gun!” or “She had the gun!” when he arrived.

§ 87(2)(b), § 87(2)(g)

- **Allegation G—Force: Det. Frank Lorello used physical force against § 87(2)(b)**

In her incomplete phone statement, § 87(2)(b) alleged that officers punched her in the head and back after she was brought to the ground, and that three different officers each kicked her once in the face. She could not describe these officers. She claimed that she suffered a split lip as a result. Her arrest photograph does not appear to show a split lip or any other injuries (BR29).

In his phone statement, § 87(2)(b) stated that Det. Lorello punched § 87(2)(b) three or four times in the back of the head and an undetermined number of times in the back of the shoulder. In his in-person statement, he alleged that Det. Lorello punched § 87(2)(b) four or five times in the back of the head and four or five times in the back of the shoulder. He specified that Det. Lorello had punched § 87(2)(b) in the head two or three times before she was handcuffed, and that he continued to punch her after she was successfully cuffed. § 87(2)(b) claimed that one officer had his knee on § 87(2)(b)'s neck while two others punched her in the head and back. Two additional officers also kicked § 87(2)(b) in the face, back, and side. § 87(2)(b) claimed that § 87(2)(b) was bleeding from her face and mouth. § 87(2)(b) said only that one officer was punching § 87(2)(b) in the back of the head.

Det. Lorello admitted that he punched § 87(2)(b) twice in the back of her shoulder. He recounted that he tried to pull § 87(2)(b)'s arms from underneath her body, but she kept her hands clenched beneath herself. After punching her twice, Det. Lorello was able to get § 87(2)(b)'s arm in order to handcuff her. He denied striking her in the head and denied that Det. Civil ever struck her. § 87(2)(g)

Video footage shows § 87(2)(b)'s arrest (see SnagIt #1, BR25).

Patrol Guide Procedure 203-11 requires that officers use minimum necessary force (BR20).

The video footage clearly shows that the civilians' allegations are false. Det. Lorello punches § 87(2)(b) twice in the back of the shoulder, at which point he and Det. Civil are able to bring her hands behind her back. Neither officer appears to strike her again, and she is quickly handcuffed and brought to a standing position. Det. Lorello's use of force was minimal and justified as a means of securing her arms to be handcuffed.

§ 87(2)(b), § 87(2)(g)

- **Allegation H—Discourtesy: Det. Mike Civil spoke discourteously to § 87(2)(b)**

and § 87(2)(b)

- **Allegation I—Discourtesy: Det. Frank Lorello spoke discourteously to § 87(2)(b)**

and § 87(2)(b)

In his in-person statement, § 87(2)(b) alleged that the two officers handcuffing § 87(2)(b) repeatedly told her to "shut the fuck up," and that they both told § 87(2)(b) to "shut the fuck up" when she approached. He at first said that the officers did not speak to him, but he later said they also told him to "shut the fuck up." § 87(2)(b) and § 87(2)(b) did not allege that officers used profanity while handcuffing § 87(2)(b)

The video footage clearly shows that Det. Civil and Det. Lorello did not use any profanity with any of the civilians while they handcuffed § 87(2)(b). The only person who can be heard using profanity during the footage is § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

- **Allegation J—Force: PO Daniel Hachemeister used physical force against § 87(2)(b)**
§ 87(2)(b) alleged that after he began filming, PO Hachemeister stood in front of him, told him to back up, argued for five to ten minutes about whether he was allowed to record the incident, and pushed his shoulders with both hands four or five times. § 87(2)(b) estimated that he was two to three feet from § 87(2)(b) as she was being cuffed, and that PO Hachemeister pushed him until he was ten feet away.

§ 87(2)(b), § 87(2)(g)

As described in a detailed IA, § 87(2)(b) is within arm's reach of Det. Civil and Det. Lorello when the video begins (BR30). The officers are still trying to handcuff § 87(2)(b) is screaming and leans closer to the officers. § 87(2)(b) continues to scream and uses numerous profanities. PO Hachemeister steps in front of § 87(2)(b) and tells him to back up. PO Hachemeister puts his hands up and the camera swings to the side, indicating that he may have pushed § 87(2)(b). PO Hachemeister again tells § 87(2)(b) to back up before turning his attention to Det. Civil and Det. Lorello. § 87(2)(b) immediately begins screaming at PO Hachemeister, "Don't tell me to back up! Don't tell me to back up nigger! Get the fuck out of here!" § 87(2)(b) advances toward PO Hachemeister and continues to scream profanities. PO Hachemeister keeps himself between § 87(2)(b) and the officers, appears to speak to individuals on either side of § 87(2)(b) and repeatedly says, "Back up." § 87(2)(b) walks around PO Hachemeister, advances toward the officers surrounding § 87(2)(b) and steps directly behind Det. Jackson while continuing to scream. PO Hachemeister steps in front of § 87(2)(b) again and tells him to back up multiple times. § 87(2)(b) attempts to step around PO Hachemeister to get closer to § 87(2)(b) and PO Hachemeister again instructs him to back up before pointing over § 87(2)(b)'s shoulder and saying, "Go over there."

Patrol Guide Procedure 203-11 requires that officers use minimum necessary force (BR20).

§ 87(2)(b), § 87(2)(g)

- **Allegation K—Discourtesy: PO Daniel Hachemeister spoke discourteously to § 87(2)(b)**

Allegation L—Abuse of Authority: PO Daniel Hachemeister threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that, when he argued with PO Hachemeister, PO Hachemeister told him to "shut the fuck up." § 87(2)(b) replied, "You shut the fuck up," and PO Hachemeister responded, "If you tell me that again, I'm gonna have to lock you up."

§ 87(2)(b), § 87(2)(g)

- **Allegation M—Force: Det. Mike Civil used physical force against § 87(2)(b)**
Allegation N—Discourtesy: Det. Mike Civil spoke discourteously to § 87(2)(b)

In his in-person interview, § 87(2)(b) alleged that Det. Civil came up behind him as he was filming and tripped him to the ground. § 87(2)(b) landed on his stomach and Det. Civil got on top of him and told him to “shut the fuck up.” When Det. Civil recovered pills from § 87(2)(b) the officer allegedly said, “These not no fucking seizure pills.” Det. Civil then handcuffed him. However, in § 87(2)(b) s phone statement, he said that Det. Civil came up behind him, grabbed his shirt, and handcuffed while he was standing against a van.

The video footage ends abruptly and does not show any part of § 87(2)(b) s apprehension. It is unclear if the footage ends at the point at which § 87(2)(b) was apprehended.

Det. Civil initially recounted that § 87(2)(b) was “impeding in the arrest” and brushed against multiple officers. He later elaborated that § 87(2)(b) came up behind him, touched his firearm, and said, “Look how easy it is.” He could not recall when § 87(2)(b) did this but thought it happened when he was trying to pick up § 87(2)(b). When asked to describe exactly how § 87(2)(b) touched his firearm, Det. Civil said, “I saw his hand, and I felt my waist move, so I just grabbed him.” Det. Civil turned § 87(2)(b) around and handcuffed him standing up. He denied that § 87(2)(b) was ever brought to the ground. Det. Civil knew that he found pills on § 87(2)(b) during a search, but was not sure when the search took place and thought it was back at the stationhouse. He denied saying, “These not no fucking seizure pills,” and denied using profanity with any civilians during the incident.

Det. Jackson later heard that a civilian had tried to grab an officer’s firearm but did not see it happen. He did not recall § 87(2)(b) being arrested and denied seeing any officer bring him to the ground. Similarly, Det. Lorello later heard that § 87(2)(b) came behind Det. Civil and tried to grab his gun but did not see it take place. He did not see how § 87(2)(b) was apprehended or if he was ever on the ground.

§ 87(2)(b), § 87(2)(g)

- **Allegation O—Force: Det. Mike Civil used physical force against § 87(2)(b)**
Allegation P—Force: Det. Essence Jackson used physical force against § 87(2)(b)

§ 87(2)(b) alleged that officers escorted him to the van and that he was limping. The officers allegedly picked him up by the ankles of his pants and the arms of his sweatshirt and literally threw him headfirst into the rear compartment of the van. The rear compartment had two benches on either wall which faced each other. § 87(2)(b) landed in the space between the benches. He

landed on his shoulder and did not strike his head on anything. He did not know which officers threw him into the van.

§ 87(2)(b) said that § 87(2)(b) lay on the floor of the van during the ride to the stationhouse but did not describe how § 87(2)(b) was placed in the van. He did not allege that officers threw § 87(2)(b) inside. None of the other civilians described how § 87(2)(b) entered the van, and none alleged that officers threw him inside.

Det. Jackson recounted that § 87(2)(b) kicked and refused to walk on the way to the van, so he and Det. Civil carried § 87(2)(b) horizontally. Det. Jackson held him by his feet and Det. Civil held his torso. § 87(2)(b) spat blood into Det. Jackson and Det. Smirnov's faces. Det. Jackson and Det. Civil placed § 87(2)(b) Jackson on the floor in the back of the van. Det. Jackson denied that they threw § 87(2)(b) into the van.

Det. Civil said that he grabbed § 87(2)(b) and pushed him into the van from behind. He denied that § 87(2)(b) fell into the van but could not describe how § 87(2)(b) actually got inside. The investigator told Det. Civil that § 87(2)(b) said that officers carried him horizontally and Det. Civil replied in frustration, "Okay, so yeah, then we did that." The investigator emphasized to Det. Civil that the investigation wanted to know what he actually recalled of the incident. Det. Civil said, "Honestly, I don't remember. I don't remember everything. I don't remember every detail. I just remember he was fighting. We had to put him in the van. We had to get out of there." Det. Civil said that he did not recall officers throwing § 87(2)(b) into the van.

Det. Lorello described § 87(2)(b) walking to the van and denied that officers carried him horizontally. He did not see which officers lodged § 87(2)(b) in the van as he had escorted Lt. Smirnov away after § 87(2)(b) spat blood in his face.

§ 87(2)(b), § 87(2)(g)

- **Allegation Q—Force: Det. Mike Civil used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that Det. Civil and Det. Jackson rode in the rear compartment of the van during the trip to the stationhouse, and that Det. Civil stood over him as he lay on the floor and punched him in the face approximately five or six times.

In his phone statement, § 87(2)(b) recounted that five officers rode in the rear compartment, including Det. Civil, and that Det. Civil punched § 87(2)(b) in the face. Two other officers also struck § 87(2)(b). One of these officers kicked him in the face. However, in his in-person statement, § 87(2)(b) said that only two officers rode in the back of the van. Det. Civil was one of the two officers. § 87(2)(b) lay with his head towards the driver's compartment. He lay on his side and faced the bench that is on the right when one looks into the compartment from outside the backdoor. § 87(2)(b) alleged that Det. Civil sat on a bench and kicked § 87(2)(b) in his left ribs more than five times. The other officer knelt near § 87(2)(b) head and punched him more than five times. § 87(2)(b) could not see whether the officer punched § 87(2)(b) in the face or in the head because Det. Civil was blocking his view. As will be discussed in greater detail in Allegation R, the investigator then questioned § 87(2)(b) in greater detail about the position of the all the individuals in the compartment, and § 87(2)(b) ultimately made contradictory statements and could not explain the reason for the contradiction. § 87(2)(b) claimed that when he saw § 87(2)(b) face again at the stationhouse, he saw that § 87(2)(b) had a bleeding laceration above his right eye which was not present when he entered the van.

§ 87(2)(b) alleged that Det. Jackson and Det. Civil both punched § 87(2)(b) in the face approximately five times during the trip to the stationhouse. She said that § 87(2)(b) suffered two black eyes.

Det. Jackson and Det. Civil admitted that they were the two officers who rode in the back of the van. Det. Jackson recounted that § 87(2)(b) continued to kick and spit as he lay on the floor in the van, and that he and Det. Civil had to hold him down. Det. Jackson was near § 87(2)(b) head while Det. Civil was near his feet. § 87(2)(b) was never placed on a bench during the ride. Det. Jackson denied that he or Det. Civil ever struck § 87(2)(b) during the ride. Det. Civil recounted that § 87(2)(b) initially sat on a bench in the van before lying on the floor with his head toward the driver. He kicked his legs and repeatedly said, “I can’t believe it. I can’t believe it.” Det. Civil sat closer to § 87(2)(b) feet. Det. Civil emphatically denied that he or Det. Jackson punched § 87(2)(b) in the face during the ride.

§ 87(2)(b), § 87(2)(g)

- **Allegation R—Force: Det. Mike Civil used physical force against § 87(2)(b)**

In his phone statement, § 87(2)(b) did not allege that any officer used force against him inside the van. During his in-person interview, § 87(2)(b) recounted the incident multiple times without alleging that any officer used force against him during the ride to the stationhouse. However, when he was specifically asked if any officer did so, § 87(2)(b) alleged that Det. Civil elbowed him once on the right side of his neck with his left arm. § 87(2)(b) did not suffer any physical injuries as a result of the incident.

Earlier in the interview, § 87(2)(b) had said that he was sitting on the left bench in the van. He also said that his view of § 87(2)(b) head in the van was blocked because Det. Civil was sitting next to him and was between him and the driver’s compartment. The investigator asked if that meant that Det. Civil was sitting on § 87(2)(b) s left side, and § 87(2)(b) insisted that Det. Civil was sitting on his right side. The investigator asked § 87(2)(b) to picture the rear compartment of the van as if he was looking through the open backdoor. § 87(2)(b) said that he was sitting on the left bench and that § 87(2)(b) was sitting on the right bench. The investigator asked if this meant that § 87(2)(b) was facing toward the right side of the van and § 87(2)(b) answered affirmatively. The investigator then explained that for Det. Civil to have been seated between § 87(2)(b) and the driver, he would have been sitting on § 87(2)(b) s left side. The investigator again asked § 87(2)(b) if Det. Civil had been sitting on his left side. § 87(2)(b) was silent for a moment before saying, “Okay, see, like, I can say my right cause, this is the door where they put us at, and over here is where the driver and all that was at.” The investigator asked if this meant that the driver’s compartment was actually located to § 87(2)(b) s right during the ride, and § 87(2)(b) agreed that it was.

§ 87(2)(b) and § 87(2)(b) specifically denied that any officer used force against § 87(2)(b) during the ride to the stationhouse.

Det. Civil specifically denied that he elbowed § 87(2)(b) in the throat, and both he and Det. Jackson denied that they used any physical force during the ride.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation S—Discourtesy: Det. Mike Civil spoke discourteously to** § 87(2)(b)

In his in-person statement, § 87(2)(b) alleged that Det. Civil told him to “shut the fuck up” before he elbowed him in the van. During his phone statement, § 87(2)(b) alleged that a different officer made the statement to him during the ride.

§ 87(2)(b) said only that Det. Jackson and Det. Civil were telling § 87(2)(b) and § 87(2)(b) to “shut up and mind their business” during the ride. § 87(2)(b) did not allege that either officer used profanity during the ride. Det. Jackson and Det. Civil both denied using profanity during the ride to the stationhouse.

§ 87(2)(b), § 87(2)(g)

He alleged that Det. Jackson and Det. Civil also said “shut the fuck up” to § 87(2)(b) during the ride, but § 87(2)(b) did not corroborate the allegation. He also alleged that the officers kicked § 87(2)(b) in the ribs during the ride, and § 87(2)(b) also did not corroborate that allegation. § 87(2)(b) also alleged that officers slammed § 87(2)(b) to the ground, that Det. Lorello repeatedly punched § 87(2)(b) in the head, that Det. Civil and Det. Lorello told him, § 87(2)(b) and § 87(2)(b) to “shut the fuck up,” that PO Hachemeister told him to “shut the fuck up” and threatened to arrest him, that Det. Civil took him to the ground and told him to “shut the fuck up,” and that Det. Civil elbowed him in the neck inside the van. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation T—Discourtesy: Det. Essence Jackson spoke discourteously to** § 87(2)(b)

§ 87(2)(b) alleged that Det. Jackson told § 87(2)(b) to “shut the fuck up” during the ride to the stationhouse. As previously discussed, neither § 87(2)(b) nor § 87(2)(b) alleged that any officer used profanity with her inside the van. Det. Jackson and Det. Civil denied the allegation.

§ 87(2)(b), § 87(2)(g)

Squad: 14

Investigator: _____
Signature Daniel Giansante Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date